

JUN 30 2005

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**FACSIMILE COVER LETTER**

**To:** Customer Service – Group Art Unit 1651  
**Firm:** U.S. Patent and Trademark Office –  
**Facsimile:** 703 872-9306  
**From:** Thomas J. Kowalski  
**Date:** June 29, 2005  
**Re:** U.S. Patent Application No. 09/484,886  
In Vivo Active Erythropoietin Produced In Insect Cells  
Our Ref. No.: 674506-2035.2  
**Number of Pages:** 3  
(including cover page)  
**cc:**

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JUN 30 2005

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Applicant : SMITH et al.  
Serial No. : 09/484,886  
Filed : January 18, 2000  
Title : APPARATUS AND METHODS OF PRODUCING  
AND USING HIGH DENSITY CELLS AND  
PRODUCTS THEREFROM  
Group Art Unit : 1651  
Examiner : Kailash C. Srivastava

745 Fifth Avenue, New York, NY 10151

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\_\_\_\_\_  
Signature

June 29, 2005

\_\_\_\_\_  
Date of Signature

**COMMENTS ON REASONS FOR ALLOWANCE**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

This paper is being filed in response to the Notice of Allowance mailed on March 29, 2005 and is being submitted to provide comments on the Examiner's stated reasons for allowance. It is believed that no additional fees are due by entry of this paper. However, the Commissioner is authorized to charge any additionally required fee for the extension, or any other fee occasioned by this paper, or credit any overpayment in such fees, to Deposit Account No. 50-0320.

The Examiner's stated reasons for allowance included the statement that "none of the art cited supra alone or in combination teach or reasonably suggest to obtain a human erythropoietin

PATENT  
674506-2035.2

(EPO) expressed and produced in *Spodoptera frugipersa* Sf900+ cell line (ATCC: CRL 12579) transfected with a baculovirus construct containing the EPO gene, wherein said recombinant EPO has *in vivo* activity of 200,000 U/mg to 500,000 U/mg." Initially, the Amendment After Allowance submitted concurrently herewith serves to clarify the claims such that the claimed EPO has an *in vivo* activity, and an activity of at least 200,000 U/mg or of about 500,000 U/mg.

In addition, Applicants respectfully assert that the claimed EPO is not limited to EPO produced using the *Spodoptera frugipersa* Sf900+ cell line (ATCC: CRL 12579), but rather includes any EPO having an *in vivo* activity, and an activity of at least 200,000 U/mg or of about 500,000 U/mg, regardless of the specific cell line used in the production of the EPO. Applicants respectfully invite the Examiner to issue a supplemental Reasons for Allowance which reflects the statements herein.

Accordingly, consideration and entry of this paper, and issuance of a supplemental Reasons for Allowance are respectfully requested.

Respectfully submitted,

FROMMER LAWRENCE & HAUG LLP  
Attorney for Applicants

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